

## **SUBCHAPTER E : SPECIAL ACTIONS OF THE COMMISSION**

### **§295.181. Provisional Disposition of Application for Temporary Permit.**

(a) Provisional Disposition. The executive director shall review each application for a temporary permit and make a recommendation as to whether or not sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. If the application is for not more than 10 acre-feet of water and for a period of not more than one year, if no valid complaint has been received by the commission prior to or during the pendency of the application from a person alleging the matters set out in subsection (b) of this section, and if it appears to the executive director that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights, the application will be forwarded to the commission, any member of which shall have the authority to make provisional disposition of the application by issuing a temporary permit to the applicant.

(b) Action Upon Receipt of Complaint. If a complaint is received before or after diversions are commenced under a temporary permit issued provisionally as provided in subsection (a) of this section from a person alleging that he is the owner of a water right or is a lawful user of water on the stream affected by the temporary permit and that the diversion of water under the temporary permit will impair the rights of the complainant, the executive director shall make an immediate investigation to determine whether there is a reasonable basis for such complaint. If it appears from a preliminary investigation that there is a probability that diversions under the temporary permit will result in injury to the complainant, the executive director shall request that the commission immediately notify, and the commission shall immediately notify, the holder of such temporary permit that the permit is cancelled without notice and hearing and that no further diversions may be made under it pending a full hearing, as provided in §295.174 of this title (relating to Applications for Temporary Permits, Emergency Permits, and Authorization to Divert Water From Un-sponsored and Storage-Limited Projects for Domestic and Livestock Purposes).

### **§295.182. Application for Authorization to Divert Water From Un-sponsored and Storage-Limited Projects for Domestic and Livestock Use.**

(a) Authorization By Commissioner. Any commissioner is authorized to issue a letter authorizing the diversion of water from un-sponsored or storage-limited projects for domestic and livestock use.

(b) Revocation of Authorization. When compliance with the conditions contained in the letter authorizing the diversion of water is not occurring or, in the case of domestic use, water becomes reasonably available through a water supply system, the authorization may be revoked by sending a letter of revocation to the user setting forth the basis for the revocation and signed by a commissioner.

**§295.183. Application for an Amendment Based on a Water Supply Contract Action of the Commission.**

The commission shall approve, in whole or in part, the application and issue an amendment based on a water supply contract only if it determines that:

(1) the supplier has met the requirements of §§297.101-297.108 of this title (relating to Water Supply Contracts and Amendments);

(2) the proposed contractual amendment is not detrimental to the public welfare, including a consideration of whether the contract, together with all other contracts previously submitted by the supplier and contractual permits in effect at the time the commission considers the application, provides for the storage, diversion, or use of state water in excess of the water right of the supplier; and

(3) the proposed sale will not impair existing water rights.

**§295.184. Extension of Time for Construction.**

The commission may, by entering an order of record, extend the time to commence or complete construction for a reasonable period of time.

**§295.185. Condemnation.**

Full authority is lodged with the commission to condemn existing works, the existence or operation of which may, in the judgment of the commission, become a public menace or a danger to life and property. The existence of such works may be brought to the attention of the commission by complaint.

**§295.186. Reservoirs Without Low-Flow Outlets.**

The commission may order the owner of a lawful dam to install a low-flow outlet or other means sufficient to pass such flows as the commission finds necessary to satisfy the rights of downstream domestic and livestock users, the senior and superior rights of other authorized users, instream flow requirements, and estuarine inflow requirements.